

BY THE COURT:

/s/ Nitza I. Quiñones Alejandro

NITZA I. QUIÑONES ALEJANDRO

Judge, United States District Court

(1) whether the private entity has exercised powers that are traditionally the exclusive prerogative of the state; (2) whether the private party has acted with the help of or in concert with state officials; and (3) whether the “[s]tate has so far insinuated itself into a position of interdependence with the acting party that it must be recognized as a joint participant in the challenged activity.”

Kach v. Hose, 589 F.3d 626, 646 (3d Cir. 2009) (internal brackets, citations, and quotation marks omitted).

Here, construing Plaintiff’s *pro se* amended complaint liberally, Plaintiff has alleged that by refusing to release minor K to Plaintiff’s care, despite minor K being medically cleared for discharge, due to an alleged unfounded report of child abuse/neglect and a resultant investigation by the Philadelphia Department of Human Services (“DHS”), Defendants were exercising powers that are “traditionally the exclusive prerogative of the state.” As such, Plaintiff contends, Defendants were state actors because they were “acting as part of the reporting and enforcement machinery for DHS, a government agency charged with detection and prevention of child abuse and neglect” At this early stage in the proceedings, construing Plaintiff’s complaint liberally and accepting all of the facts pled as true, this Court finds that Plaintiff has alleged facts sufficient to show that Defendants could be considered as acting under color of law. Accordingly, Defendants’ motion is denied as to Plaintiff’s §1983 claims.